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Paivi Maatta

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

LONG, LUANA ZHANG

ART UNIT

PAPER NUMBER

1782

NOTIFICATION DATE

DELIVERY MODE

03/10/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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DETAILED ACTION

Information Disclosure Statement

The information disclosure statement (IDS) submitted on February 23, 2011 was filed after the mailing date of the Final Office Action on November 23, 2010. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Response to Amendment

Applicants' amendment to the claims in the reply filed February 23, 2011 has not been entered. Amended claim 1 presents new issues requiring further consideration or search since the scope of the claim has changed.

Response to Arguments

Applicant's arguments filed February 23, 2011 have been fully considered but they are not persuasive. Applicants argue on page 6 of the Remarks that Bemiss does not relate to the process of putting food into a tray, baking the food, and closing the tray containing the baked food to finish the food package for consumer use. However, as described in the Office Action mailed 11/23/2010, it is well-known in the art, as admitted by applicants, to place a food in a tray in a raw state, bake the food inside the tray, and close the finished food with a lid. Applicants also disclose that it was well-known to have the food tray made out of aluminum, a heat-resistant plastic, or a polymer coated

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board. Since the food package of Bemiss is heat-resistant, it would have been obvious to one skilled in the art to use the tray and lid of Bemiss in a baking process well-known in the art.

With respect to arguments on pages 6-7 of the Remarks, applicants urge that the Bemiss package cannot be capable of contaminating the rim flange during cooking. Applicants' arguments have been considered but they are not persuasive. Applicants refer to claim 1, which characterizes the food tray in that the packaged food is capable of contaminating the tray rim flange during cooking. Applicants are reminded that claim 1 is a product claim and the language, "which contaminates the rim flange during cooking," pertain to an intended use or function of the food package. It is noted that the recited intended use or function does not further structurally limit the tray of applicants' food package in claim 1. Even though Bemiss does not disclose using the food package according to applicants' intended process, the food package of Bemiss is nevertheless capable of performing the intended function of, the rim flange of the tray being contaminated by the contained food during a particular cooking process. Since applicants have not further defined the rim flange of claim 1 over Bemiss, the food package of claim 1 remains obvious over Bemiss.

Therefore, for all these reasons, the rejection of record is maintained.

/Rena L. Dye/
Supervisory Patent Examiner, Art Unit 1782

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